Calendar No. 755

99TH CONGRESS
2d Session

SENATE

REPORT
99-353

CONVEYING CERTAIN FOREST SERVICE LANDS IN THE STATE OF ARIZONA TO FLAGSTAFF, AZ

AUGUST 1 (legislative day, JULY 28), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 567]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 567) to convey Forest Service Land to Flagstaff, Arizona, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof:

That (a) subsection (b)(1) of section 1 of Public Law 96-581, relating to land conveyances in the State of Arizona, is amended by striking out "Any conveyances" and inserting in lieu thereof "Except as provided in subsection (c), any conveyances".

(b) Subsection (c) of section 1 is amended to read as follows:

"(c)(1) Of the tract of land described in subsection (a) of this section, the Secretary shall offer to sell at the fair market value as determined on December 23, 1980, to the Flagstaff Medical Regional Center, Flagstaff, Arizona, not to exceed 18.25 acres immediately adjacent to said Flagstaff Medical Regional Center and shall convey, without consideration, except for administrative costs associated with the preparation of title and legal description, to the city of Flagstaff, Arizona, 134.57 acres, under special use permit in effect on the date of enactment of this Act to the city of Flagstaff.

"(2) Title to any real property acquired by the city of Flagstaff pursuant to this section shall revert to the United States if the city attempts to convey or otherwise transfer ownership of any portion of such property to any other party or attempts to encumber such title, or if the town permits the use of any portion of such property for any purpose incompatible with the purposes specified in paragraph (3) of this section.

"(3) Real property conveyed to the city of Flagstaff pursuant to this section shall be used for public open space, park and recreational purposes.

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"(4) Except for any land to be conveyed to the Flagstaff Medical Regional Center and the city of Flagstaff, the Secretary shall solicit public offers for the remaining lands and improvements authorized under subsection (a) of this section. All offers shall be publicly opened at the time and place stated in the solicitation in accordance with the administrative requirements of the Secretary. The Secretary shall consider price and land values before entering into agreements or land exchanges with any party whose offer conforming to the solicitation notice is determined by the Secretary to be the most advantageous to the Government. Notwithstanding any other provision of this Act, the Secretary may reject any offer if the Secretary determines that such rejection is in the public interest.".

Purpose of the Measure

S. 567, as reported, would amend Public Law 96–581 to direct the Secretary of Agriculture to convey 134.57 acres of National Forest System land to the city of Flagstaff, Arizona, without consideration.

Background and Need

The Federal lands transferred by S. 567 are part of the Coconino National Forest and lie within the city limits of Flagstaff, Arizona. The lands are part of a 256-acre tract authorized by Public Law 96–581 (Act of December 23, 1980, 94 Stat. 3371), to be sold by the Secretary of Agriculture to the city at fair market value, based on 1980 prices. The proceeds of such sale would be used to construct administrative improvements elsewhere in the National Forest.

The 134.57-acre tract has been under a continuous free-use permit to the city since 1917 for use as a city park (Thorpe Park). The free-use permit was last renewed on April 1, 1969. It was amended August 28, 1984, to delete 2.6 acres and place that parcel under a 25-year permit. The smaller parcel is being used as a baseball/multiple purpose field for which the city pays an annual fee of $1,120.52.

S. 567 amends Public Law 96–581 to require the Secretary to convey the 134.57 acres without payment by the city.

Legislative History

S. 567 was introduced by Senator DeConcini on March 5, 1985. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on the bill on October 4, 1985.

At a business meeting on July 16, 1986, the Senate Committee on Energy and Natural Resources ordered S. 567, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on July 16, 1986, by unanimous vote of a quorum present recommends that the Senate pass S. 567, if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield*	

Mr. Weicker
Mr. Domenici
Mr. Wallop
Mr. Warner
Mr. Murkowski*
Mr. Nickles
Mr. Hecht
Mr. Evans*
Mr. Johnston
Mr. Bumpers
Mr. Ford
Mr. Metzenbaum*
Mr. Bradley*
Mr. Bingaman*
Mr. Rockefeller*

* Indicates vote by proxy.

Committee Amendment

The substitute corrects the acreage to be conveyed to a 1982 BLM survey. The substitute provides for reversion to the United States if the land is not used for park and open space purposes. Flagstaff will bear the administrative and survey costs associated with the transfer.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 23, 1986.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 567, a bill to convey Forest Service Land to Flagstaff, Arizona, as ordered reported by the Senate Committee on Energy and Natural Resources on July 16, 1986.

S. 567 would amend Public Law 96-581 to authorize the Secretary of Agriculture to convey 134.57 acres of Forest Service lands to the city of Flagstaff, Arizona. The land would be conveyed without consideration, except for administrative costs associated with the preparation of title and legal description.

Under current law, the city of Flagstaff would be required to pay the federal government fair market value in order to acquire the land. Based on information obtained from the Forest Service and the city of Flagstaff, and assuming that the sale will proceed if this bill is not enacted, CBO estimates that enactment of S. 567 would cause the federal government to forgo receipts of approximately $900,000 in fiscal year 1987 that would otherwise be realized from the sale of the land to the city.

Correspondingly, the city of Flagstaff would realize a savings of about $900,000 because it would not be required to pay for the land.

Enactment of S. 567 would not otherwise affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 567. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 567, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth executive agency recommendations relating to S. 567 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, October 10, 1985.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 567, a bill "To convey Forest Service land to Flagstaff, Arizona."

The Department of Agriculture recommends that S. 567 not be enacted.

This bill would amend Public Law 96-581 (Act of December 23, 1980; 94 Stat. 3371), which directs (in part) the Secretary of Agriculture (Secretary) to offer to convey at fair market value 132.5 acres of National Forest System land to the city of Flagstaff, Arizona, to require the Secretary to convey the land without payment by the city. It would also remove a provision from the 1980 Act requiring the Secretary to offer to sell an adjoining 18.25 acre tract to the Flagstaff Medical Center.

The Federal lands in question are a part of the Coconino National Forest, Coconino County, Arizona, and lie within the city limits of Flagstaff. It is a part of a 256-acre tract authorized by the 1980 Act to be sold by the Secretary and the proceeds used to construct administrative improvements elsewhere on the National Forest equal in value to the land and improvements to be conveyed by the Secretary. The 132.5-acre tract has been under a continuous free-use permit to the city since 1917 for use as a city park (Thorpe Park). The act allows 3 years to the Medical Center and 10 years to the city to consummate the sale after the offer is made. The Act

further requires that the value be based on 1980 prices. An agreement for sale to the Medical Center was reached in April 1984 at a price of $900,000 and the parties are proceeding to consummate the terms of that agreement. An offer was made to the city by the Coconino National Forest Supervisor on July 20, 1984, for purchase of all or a portion of the park land. The offered price (1980 value) for the entire tract was $875,000. Based on mineral value determinations made for conveyance of other Federal lands in the immediate area, it has been concluded that there are no mineral values associated with these tracts. The remainder of the 256 acres would not be affected by S. 567 and would remain subject to sale.

The free-use permit to the city was last renewed on April 1, 1969. It was amended on August 28, 1984, to delete 2.6 acres and place that parcel under a 25-year term permit. The smaller parcel is being used as a baseball/multiple purpose field for which the city pays an annual fee of $1,120.52. There are three encumbrances on the larger tract, not authorized by the permit. These include a natural gas pipeline, a driveway and parking lot for the Army National Guard armory, and a portion of a private residence driveway and yard which is an unauthorized private encroachment. It is our understanding that at the time of enactment of the 1980 Act, the city intended to use the 132.5-tract for development of a senior citizen housing project and perhaps for expansion of an activity center.

We believe that conveyance of the land to the city for the park is appropriate. Conveyance without payment is not appropriate. The general public should benefit from the conveyance to the citizens of Flagstaff. We also object to the provision in the bill that would remove from the 1980 Act that provision regarding the conveyance of 18.25 acres to the Flagstaff Medical Center. This conveyance has not been completed. To remove this provision could adversely affect the conveyance. In keeping with the President's direction that all disposals of Federal land should be at fair market value, we must oppose the legislation. Acquisition by the city and the Medical Center should be under the current provisions of the 1980 Act.

It should also be noted that there are other statutes that provide broader authority to convey by sale or exchange Federal lands to States and local governments for public purposes. The Townsite Act (Act of July 31, 1958, as amended; 16 U.S.C. 478a) permits communities in 11 Western States to acquire up to 640 acres of National Forest System land for community expansion. The Act of December 4, 1967, as amended (Sisk Act; 16 U.S.C. 484a), authorizes sales of up to 80 acres of National Forest System land where a local government currently holds a permit to use the land. It would be unfair to communities acquiring land under these authorities to have Federal land conveyed under similar conditions and without consideration to the city of Flagstaff.

As part of the preparation of the offer to sell the land to the city, the Bureau of Land Management in 1982 surveyed the tract identified in the 1980 Act and determined the correct acreage to be 134.57 acres.

The Office of Management and Budget advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R BLOCK, *Secretary.*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 567, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 96-581—DECEMBER 23, 1980

(Stat. 3371)

* * * * * * *

(b)(1) [Any conveyances] *Except as provided in subsection (c), any conveyances* pursuant to subsection (a) of this section shall be conditioned upon the Secretary entering into agreements or land exchanges, sufficient to assure the Secretary that any party with whom such agreements or land exchanges are to be made will construct on a site to be determined by the Secretary, administrative improvements equal in value to the lands and improvements authorized to be conveyed by subsection (a) of this section. The lands and improvements may be conveyed by a series of transactions or land exchanges.

(2) Each party to whom conveyances are to be made may, in the discretion of the Secretary, deposit cash in an amount not less than the fair market value, to be determined at the time of conveyance, of the lands and improvements conveyed. The cash so received shall be deposited into a special fund in the Treasury which when appropriated is authorized to remain available until expended by the Secretary for the purposes of constructing administrative improvements as described in this Act. If the value of any land and improvements thereon authorized to be conveyed by subsection (a) of this section exceeds the value of administrative improvements determined to be necessary by the Secretary to be constructed with respect to such land under this Act, the party to whom such conveyance is to be made shall make a cash payment to the United States in an amount equal to such difference in value.

[(c)(1) Of the tract of land described in subsection (a) of this section, the Secretary shall offer to sell at the fair market value, as determined on the date of enactment of this Act, to the Flagstaff Medical Regional Center, Flagstaff, Arizona, not to exceed 18.25 acres immediately adjacent to said Flagstaff Medical Regional Center and to the city of Flagstaff, Arizona, not to exceed 132.5 acres, under special use permit in effect on the date of enactment of this Act to the city of Flagstaff. Such offers to sell to the Flagstaff Medical Regional Center and to the city of Flagstaff shall remain in effect for periods of not to exceed 3 years and 10 years, respectively. Subject to the limitations contained in this paragraph,

the city of Flagstaff and the Flagstaff Medical Regional Center may identify any specific tracts of land they want to purchase.

[(2) Except for any land to be conveyed to the Flagstaff Medical Regional Center and the city of Flagstaff, the Secretary shall solicit public offers for the remaining lands and improvements authorized under subsection (a) of this section. All offers shall be publicly opened at the time and place stated in the solicitation in accordance with the administrative requirements of the Secretary. The Secretary shall consider price and land values before entering into agreements or land exchanges with any party whose offer conforming to the solicitation notice is determined by the Secretary to be most advantageous to the government. Notwithstanding any other provision of this Act, the Secretary may reject any offer if the Secretary determines that such rejection is in the public interest.]

(c)(1) Of the tract of land described in subsection (a) of this section, the Secretary shall offer to sell at the fair market value as determined on December 23, 1980, to the Flagstaff Medical Regional Center, Flagstaff, Arizona, not to exceed 18.25 acres immediately adjacent to said Flagstaff Medical Regional Center and shall convey, without consideration, except for administrative costs associated with the preparation of title and legal description, to the city of Flagstaff, Arizona, 134.57 acres, under special use permit in effect on the date of enactment of this Act to the city of Flagstaff.

(2) Title to any real property acquired by the city of Flagstaff pursuant to this section shall revert to the United States if the city attempts to convey or otherwise transfer ownership of any portion of such property to any other party or attempts to encumber such title, or if the town permits the use of any portion of such property for any purpose incompatible with the purposes specified in paragraph (3) of this section.

(3) Real property conveyed to the city of Flagstaff pursuant to this section shall be used for public open space, park and recreational purposes.

(4) Except for any land to be conveyed to the Flagstaff Medical Regional Center and the city of Flagstaff, the Secretary shall solicit public offers for the remaining lands and improvements authorized under subsection (a) of this section. All offers shall be publicly opened at the time and place stated in the solicitation in accordance with the administrative requirements of the Secretary. The Secretary shall consider price and land values before entering into agreements or land exchanges with any party whose offer conforming to the solicitation notice is determined by the Secretary to be the most advantageous to the Government. Notwithstanding any other provision of this Act, the Secretary may reject any offer if the Secretary determines that such rejection is in the public interest.

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